

# HOUSE BILL No. 1344

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-8-8.

**Synopsis:** 1977 pension fund membership. Permits the Northern Indiana Commuter Transportation District police officers to become members of the 1977 police officers' and firefighters' pension and disability fund.

**Effective:** July 1, 2003.

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**Kromkowski, Lawson L**

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January 14, 2003, read first time and referred to Committee on Labor and Employment.

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Introduced

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1344

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 36-8-8-1, AS AMENDED BY P.L.246-2001,  
2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2003]: Sec. 1. This chapter applies to:  
4 (1) full-time police officers hired or rehired after April 30, 1977,  
5 in all municipalities, or who converted their benefits under  
6 IC 19-1-17.8-7 (repealed September 1, 1981);  
7 (2) full-time fully paid firefighters hired or rehired after April 30,  
8 1977, or who converted their benefits under IC 19-1-36.5-7  
9 (repealed September 1, 1981);  
10 (3) a police matron hired or rehired after April 30, 1977, and  
11 before July 1, 1996, who is a member of a police department in a  
12 second or third class city on March 31, 1996; ~~and~~  
13 (4) a park ranger who:  
14 (A) completed at least the number of weeks of training at the  
15 Indiana law enforcement academy or a comparable law  
16 enforcement academy in another state that were required at the  
17 time the park ranger attended the Indiana law enforcement

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academy or the law enforcement academy in another state;  
 (B) graduated from the Indiana law enforcement academy or  
 a comparable law enforcement academy in another state; and  
 (C) is employed by the parks department of a city having a  
 population of more than one hundred twenty thousand  
 (120,000) but less than one hundred fifty thousand (150,000);  
**and**

**(5) a full-time police officer who is employed by a commuter  
 transportation district;**

except as provided by section 7 of this chapter.

SECTION 2. IC 36-8-8-1.5 IS ADDED TO THE INDIANA CODE  
 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 1, 2003]: **Sec. 1.5. As used in this chapter, "commuter  
 transportation district" means a commuter transportation district  
 established under IC 8-5-15.**

SECTION 3. IC 36-8-8-2 IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter,  
 "employer" means:

(1) a municipality that established a 1925 or 1953 fund or that  
 participates in the 1977 fund under section 3 or 18 of this chapter;

**or**

(2) a unit that established a 1937 fund or that participates in the  
 1977 fund under section 3 or 18 of this chapter; **or**

**(3) a commuter transportation district.**

SECTION 4. IC 36-8-8-2.1 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.1. (a) As used in this  
 chapter, "local board" means the following:

(1) For a unit that established a 1925 fund for its police officers,  
 the local board described in IC 36-8-6-2.

(2) For a unit that established a 1937 fund for its firefighters, the  
 local board described in IC 36-8-7-3.

(3) For a consolidated city that established a 1953 fund for its  
 police officers, the local board described in IC 36-8-7.5-2.

(4) For a unit, other than a consolidated city, that did not establish  
 a 1925 fund for its police officers or a 1937 fund for its  
 firefighters, the local board described in subsection (b) or (c).

**(5) For a commuter transportation district, the board of  
 trustees of the commuter transportation district.**

(b) If a unit did not establish a 1925 fund for its police officers, a  
 local board shall be composed in the same manner described in  
 IC 36-8-6-2(b). However, if there is not a retired member of the  
 department, no one shall be appointed to that position until such time



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as there is a retired member.

(c) If a unit did not establish a 1937 fund for its firefighters, a local board shall be composed in the same manner described in IC 36-8-7-3(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

SECTION 5. IC 36-8-8-3, AS AMENDED BY P.L.195-1999, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If a town establishes a board of metropolitan police commissioners, or if a town becomes a city, the municipality shall participate in the 1977 fund. However, if a police officer or former marshal is a member of the public employees' retirement fund, **he the police officer or former marshal** may continue as a member of that fund instead of the 1977 fund. Notwithstanding the age requirements under section 7(a) of this chapter, a police officer or former marshal employed by a municipality at the time the municipality enters the 1977 fund under this section shall be a member of the 1977 fund unless the police officer or former marshal elects to continue as a member of the public employees' retirement fund. A person may become a member of the 1977 fund under this subsection without meeting the age limitation under section 7(a) of this chapter only if the person satisfies:

(1) any aptitude, physical agility, or physical and mental standards established by a local board under IC 36-8-3.2; and

(2) the minimum standards that are:

(A) adopted by the PERF board under section 19 of this chapter; and

(B) in effect on the date the person becomes a member of the 1977 fund.

Credit for prior service of a person who becomes a member of the 1977 fund under this subsection shall be determined under section 18 or 18.1 of this chapter. No service credit beyond that allowed under section 18 or 18.1 of this chapter may be recognized under the 1977 fund.

(b) If a unit did not establish a 1937 fund for its firefighters, the unit may participate in the public employees' retirement fund or it may participate in the 1977 fund. If a unit established a 1937 fund for its firefighters, the unit is and shall remain a participant in the 1977 fund.

(c) A unit that:

(1) has not established a pension fund for its firefighters; or

(2) is participating in the public employees' retirement fund under subsection (b);

may participate in the 1977 fund upon approval by the fiscal body,



notwithstanding IC 5-10.3-6-8. A unit that participates in the 1977 fund under this subsection must comply with section 21 of this chapter. However, if a firefighter is a member of the public employees' retirement fund, the firefighter may continue as a member of that fund instead of the 1977 fund.

**(d) If a commuter transportation district becomes a participant in the 1977 fund, the full-time police officers employed by the district shall become members on the 1977 fund. Notwithstanding the age requirements under section 7(a) of this chapter, a police officer employed by a commuter transportation district at the time the district enters the 1977 fund under this section shall be a member of the 1977 fund unless the police officer elects to continue as a member of the public employees' retirement fund. A person may become a member of the 1977 fund under this subsection without meeting the age limitation under section 7(a) of this chapter only if the person satisfies:**

**(1) any aptitude, physical agility, or physical and mental standards established by a local board under IC 36-8-3.2; and**

**(2) the minimum standards that are:**

**(A) adopted by the PERF board under section 19 of this chapter; and**

**(B) in effect on the date the person becomes a member of the 1977 fund.**

**Credit for prior service of a person who becomes a member of the 1977 fund under this subsection shall be determined under section 18 or 18.1 of this chapter. No service credit beyond that allowed under section 18 or 18.1 of this chapter may be recognized under the 1977 fund.**

SECTION 6. IC 36-8-8-7, AS AMENDED BY P.L.246-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), and (h):

(1) a police officer; or

(2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires ~~him~~ **the police officer**

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1 **or firefighter** chooses to contribute to the 1977 fund the amount  
 2 necessary to amortize ~~his~~ **the police officer's or firefighter's** prior  
 3 service liability over a period of not more than forty (40) years, the  
 4 amount and the period to be determined by the PERF board. If the  
 5 employer chooses to make the contributions, the police officer or  
 6 firefighter is entitled to receive credit for ~~his~~ **the police officer's or**  
 7 **firefighter's** prior years of service without making contributions to the  
 8 1977 fund for that prior service. In no event may a police officer or  
 9 firefighter receive credit for prior years of service if the police officer  
 10 or firefighter is receiving a benefit or is entitled to receive a benefit in  
 11 the future from any other public pension plan with respect to the prior  
 12 years of service.

13 (c) Except as provided in section 18 of this chapter, a police officer  
 14 or firefighter is entitled to credit for all years of service after April 30,  
 15 1977, with the police or fire department of an employer covered by this  
 16 chapter.

17 (d) A police officer or firefighter with twenty (20) years of service  
 18 does not become a member of the 1977 fund and is not covered by this  
 19 chapter, if ~~he:~~ **the police officer or firefighter:**

- 20 (1) was hired before May 1, 1977;
- 21 (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both
- 22 of which were repealed September 1, 1981); and
- 23 (3) is rehired after April 30, 1977, by the same employer.

24 (e) A police officer or firefighter does not become a member of the  
 25 1977 fund and is not covered by this chapter if ~~he:~~ **the police officer**  
 26 **or firefighter:**

- 27 (1) was hired before May 1, 1977;
- 28 (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both
- 29 of which were repealed September 1, 1981);
- 30 (3) was rehired after April 30, 1977, but before February 1, 1979;
- 31 and
- 32 (4) was made, before February 1, 1979, a member of a 1925,
- 33 1937, or 1953 fund.

34 (f) A police officer or firefighter does not become a member of the  
 35 1977 fund and is not covered by this chapter if ~~he:~~ **the police officer**  
 36 **or firefighter:**

- 37 (1) was hired by the police or fire department of a unit before May
- 38 1, 1977;
- 39 (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both
- 40 of which were repealed September 1, 1981);
- 41 (3) is rehired by the police or fire department of another unit after
- 42 December 31, 1981; and

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(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, ~~he~~ **the police officer or firefighter** is entitled to receive credit for all ~~his~~ **the police officer's or firefighter's** years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

- (1) is employed by a unit that is participating in the 1977 fund;
- (2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;
- (3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction; shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

- (1) a fire chief under a waiver under IC 36-8-4-6(c); or
- (2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

- (1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;
- (2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and
- (3) is employed by the parks department of a city having a

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1 population of more than one hundred twenty thousand (120,000)  
 2 but less than one hundred fifty thousand (150,000);  
 3 is a member of the fund.

4 **(k) A full-time police officer who is employed by a commuter**  
 5 **transportation district is a member of the fund in accordance with**  
 6 **section 3(d) of this chapter.**

7 SECTION 7. IC 36-8-8-18, AS AMENDED BY P.L.61-2002,  
 8 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2003]: Sec. 18. (a) Except as provided in subsection (b), if a  
 10 unit **or a commuter transportation district** becomes a participant in  
 11 the 1977 fund, credit for prior service by police officers (including  
 12 prior service as a full-time, fully paid town marshal or full-time, fully  
 13 paid deputy town marshal by a police officer employed by a  
 14 metropolitan board of police commissioners) or by firefighters before  
 15 the date of participation may be given by the PERF board only if:

16 (1) the unit **or the district** contributes to the 1977 fund the  
 17 amount necessary to amortize prior service liability over a period  
 18 of not more than forty (40) years, the amount and period to be  
 19 determined by the PERF board; and

20 (2) the police officers or firefighters pay, either in a lump sum or  
 21 in a series of payments determined by the PERF board, the  
 22 amount that they would have contributed if they had been  
 23 members of the 1977 fund during their prior service.

24 If the requirements of subdivisions (1) and (2) are not met, a fund  
 25 member is entitled to credit only for years of service after the date of  
 26 participation.

27 (b) If a unit becomes a participant in the 1977 fund under section  
 28 3(c) of this chapter, or if a firefighter becomes a member of the 1977  
 29 fund under section 7(g) of this chapter, credit for prior service before  
 30 the date of participation or membership shall be given by the PERF  
 31 board as follows:

32 (1) For a member who will accrue twenty (20) years of service  
 33 credit in the 1977 fund by the time the member reaches the  
 34 earliest retirement age under the fund at the time of the member's  
 35 date of participation in the 1977 fund, the member will be given  
 36 credit in the 1977 fund for one-third (1/3) of the member's years  
 37 of participation in PERF as a police officer, a firefighter, or an  
 38 emergency medical technician.

39 (2) For a member who will not accrue twenty (20) years of service  
 40 credit in the 1977 fund by the time the member reaches the  
 41 earliest retirement age under the fund at the time of the member's  
 42 date of participation in the 1977 fund, such prior service shall be

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given only if:

(A) the unit contributes to the 1977 fund the amount necessary to fund prior service liability amortized over a period of not more than ten (10) years. The amount of contributions must be based on the actual salary earned by a first class firefighter at the time the unit becomes a participant in the 1977 fund, or the firefighter becomes a member of the 1977 fund, or if no such salary designation exists, the actual salary earned by the firefighter. However, credit for prior service is limited to the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter reaches the earliest retirement age under the 1977 fund at the time of the member's date of participation in the 1977 fund. The limit on credit for prior service does not apply if the firefighter was a member of the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 and who subsequently became a member of the 1977 fund. A firefighter who was a member of or reentered the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 is entitled to full credit for prior service in an amount equal to the firefighter's years of service before becoming a member of or reentering the 1977 fund. Service may only be credited for time as a full-time, fully paid firefighter or as an emergency medical technician under section 7(g) of this chapter;

(B) the amount the firefighter would have contributed if the firefighter had been a member of the 1977 fund during the firefighter's prior service must be fully paid and must be based on the firefighter's actual salary earned during that period before service can be credited under this section; **and**

(C) any amortization schedule for contributions paid under clause (A) and contributions to be paid under clause (B) must include interest at a rate determined by the PERF board.

(3) If, at the time a unit entered the 1977 fund, the unit contributed the amount required by subdivision (2) so that a fund member received the maximum prior service credit allowed by subdivision (2) and, at a later date, the earliest retirement age was lowered, the unit may contribute to the 1977 fund on the fund member's behalf an additional amount that is determined in the same manner as under subdivision (2) with respect to the additional prior service, if any, available as a result of the lower

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retirement age. If the unit pays the additional amount described in this subdivision in accordance with the requirements of subdivision (2), the fund member shall receive the additional service credit necessary for the fund member to retire at the lower earliest retirement age.

(c) This subsection applies to a unit that:

(1) becomes a participant in the 1977 fund under section 3(c) of this chapter; and

(2) is a fire protection district created under IC 36-8-11 that includes a township or a municipality that had a 1937 fund.

A firefighter who continues uninterrupted service with a unit covered by this subsection and who participated in the township or municipality 1937 fund is entitled to receive service credit for such service in the 1977 fund. However, credit for such service is limited to the amount accrued by the firefighter in the 1937 fund or the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter becomes fifty-five (55) years of age, whichever is less.

(d) The unit shall contribute into the 1977 fund the amount necessary to fund the amount of past service determined in accordance with subsection (c), amortized over a period not to exceed ten (10) years with interest at a rate determined by the PERF board.

(e) If the township or municipality has accumulated money in its 1937 fund, any amount accumulated that exceeds the present value of all projected future benefits from the 1937 plan shall be paid by the township or municipality to the unit for the sole purpose of making the contributions determined in subsection (d).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the

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applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 8. IC 36-8-8-18.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18.1. (a) As used in this section, "police officer" includes:

- (1) a former full-time, fully paid town marshal or full-time, fully paid deputy town marshal who is employed as a police officer by a metropolitan board of police commissioners; **or**
- (2) a full-time police officer who is employed by a commuter transportation district.**

(b) If a unit becomes a participant in the 1977 fund and the unit previously covered police officers, firefighters, or emergency medical technicians in PERF, ~~or~~ if the employees of the unit become members of the 1977 fund under section 7(g) of this chapter, **or if a commuter transportation district that previously covered police officers in PERF becomes a participant in the 1977 fund**, the following provisions apply:

- (1) A minimum benefit applies to members electing to transfer or being transferred to the 1977 fund from PERF. The minimum benefit, payable at age fifty-five (55), for such a member equals the actuarial equivalent of the vested retirement benefit payable to the member upon normal retirement under IC 5-10.2-4-1 as of the day before the transfer, based solely on:

- (A) creditable service;
  - (B) the average of the annual compensation; and
  - (C) the amount credited to the annuity savings account;
- of the transferring member as of the day before the transfer under IC 5-10.2 and IC 5-10.3.

- (2) The PERF board shall transfer from PERF to the 1977 fund the amount credited to the annuity savings accounts and the present value of the retirement benefits payable at age sixty-five (65) attributable to the transferring members.

- (3) The amount:

- (A) the unit; **or**
- (B) the commuter transportation district;**

and the member must contribute to the 1977 fund under section 18 of this chapter, if any service credit is to be given under that

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1 section, will be reduced by the amounts transferred to the 1977  
2 fund by the PERF board under subdivision (2).

3 (4) Credit for prior service in PERF of a member as a police  
4 officer, a firefighter, or an emergency medical technician is  
5 waived in PERF. Any credit for that service under the 1977 fund  
6 shall only be given in accordance with section 18 of this chapter.

7 (5) Credit for prior service in PERF of a member, other than as a  
8 police officer, a firefighter, or an emergency medical technician,  
9 remains in PERF and may not be credited under the 1977 fund.

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